

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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| In the Matter of                               | ) |          |
|  | ) |          |
| Request for Licensing Freezes and Petition for | ) |          |
| Rulemaking to Amend the Commission's DTV       | ) | RM-11626 |
| Table of Allocations to Prohibit the Future    | ) |          |
| Licensing of Channel 51 Broadcast Stations and | ) |          |
| To Promote Voluntary Agreements to Relocate    | ) |          |
| Broadcast Stations from Channel 51             | ) |          |

**REPLY COMMENTS OF HEARST TELEVISION INC.**

Hearst Television Inc. ("Hearst"), parent company of (i) WTAE Hearst Television Inc., licensee of Channel 51 Television Station WTAE-TV, Pittsburgh, Pennsylvania, (ii) WGAL Hearst Television Inc., permittee of Channel 51 Digital Replacement Translator Station in File No. BDRTCDT-20100329ACY, Lancaster, Pennsylvania, and (iii) KOAT Hearst Television Inc., licensee of Channel 51 Digital TV Translator Station K51DS-D, Deming, New Mexico, and permittee of Channel 51 Digital TV Translator Station K51LO-D, Mt. Powell, New Mexico, by its attorneys, submits these reply comments in the above-captioned proceeding, which was opened in response to a Petition for Rulemaking and Request for Licensing Freezes filed by CTIA – The Wireless Association® and Rural Cellular Association (the "Petition").

Hearst currently has under consideration the further maximization of its WTAE-TV Channel 51 facility so that it may provide more robust service to the public. Hearst also is in the process of budgeting and planning for the construction of the two unbuilt Channel 51 translators referenced above. Accordingly, Hearst opposes the implementation of a freeze on applications for new or modified broadcast facilities on Channel 51.

Hearst agrees with the arguments set forth by other broadcasters in this docket that the issues raised in the Petition were previously considered and properly rejected by the Commission, that the prices paid at auction by carriers who purchased lower 700 MHz A-Block frequencies would have reflected the regulatory circumstances relating to Channel 51 protection, and that constraints of the nature proposed in the Petition would be detrimental to the public interest and particularly to over-the-air viewers of Hearst's stations that operate or will operate on Channel 51.

Several commenters advocating in favor of the Petition suggest that grant of the Petition would create regulatory certainty where there currently is none. With respect to Channel 51 operations, Hearst favors regulatory certainty and, fortunately, regulatory certainty already exists—the rules requiring A-Block licensees to protect Channel 51 television operations have been in place and relied upon by Hearst, by other broadcasters, and by viewers for a decade.<sup>1</sup> In fact, the Petition is the only thing that has created uncertainty: Since the filing of the Petition, Hearst's plan to consider further maximization of its WTAE-TV Channel 51 facility has been thrown into question, Hearst's ability to provide robust service in Lancaster, Pennsylvania, through use of its Channel 51 Digital Replacement Translator, has been thrown into question, and the continued viability of

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<sup>1</sup> See *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, Notice of Proposed Rulemaking, 16 FCC Rcd 7278 (2001), ¶ 16 (seeking comment on interference protection for Channel 51 television operations); *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279 (2004), ¶ 124 (unequivocally adopting interference protection for Channel 51 television operations by Channel 52 wireless licensees and expressly rejecting calls for reciprocal interference protection by Channel 51 television licensees to Channel 52 wireless licensees).

Hearst's Channel 51 digital translator operations in New Mexico has been thrown into question.

With respect to Hearst's two Channel 51 TV Translator Construction Permits,<sup>2</sup> it is not unusual during construction of a facility for a permittee to seek to modify its construction permit for any number of reasons, including changes in or discontinued availability of equipment, changes in height, and the like. Grant of the Petition would prohibit Hearst from making any changes to its unbuilt translator facilities. Grant of the Petition would also prevent Hearst from further maximizing WTAE-TV's operations, a project that is actively under consideration. These limitations would be actual and not speculative and would have the effect of restricting service to the public, which is contrary to the public interest. For these reasons and the reasons cited by other broadcaster commenters in this proceeding, Hearst files these reply comments in opposition to the Petition.

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<sup>2</sup> The potential effect of the Petition on Hearst's Channel 51 Digital Replacement Translator facility in Lancaster, Pennsylvania, is particularly vexing given that Hearst, in connection with this facility, took the extraordinary step of voluntarily relinquishing a Channel 15 Digital Replacement Translator construction permit in Lancaster in order to accommodate public safety use of Channel 15. *See* FCC File No. BDRTCDT-20100329ACY ("Hearst, in an extraordinary effort to be sensitive to the desires of the County's public safety request . . . herein seeks to specify Channel 51 for its Lancaster, PA, translator, which would avoid conflict with Lancaster County's waiver request for Channel 15."). When Hearst made that decision, it identified Channel 51 as the only other channel available that would provide comparable service to Channel 15.

Respectfully submitted,

**HEARST TELEVISION INC.**

/s/

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Mark J. Prak  
Stephen Hartzell

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.  
Wachovia Capitol Center, Suite 1600  
150 Fayetteville Street (27601)  
Post Office Box 1800  
Raleigh, North Carolina 27602  
Telephone: (919) 839-0300  
Facsimile: (919) 839-0304

Its Attorneys

May 12, 2011